

**REMARKS**

Claims 36-39 are canceled and new claims 40-42 added, hence, claims 40-43 are all the claims pending in the application, each of which is rejected under 35 U.S.C. §103(a) as being obvious in view of Wong in view of Okajima. Applicant respectfully submits that the new claims are patentable over the prior art of record.

Applicants submit new claims 40-42 which better address their original perceived problem. That problem relates to conventional fixed penalty charges that excessively penalize initial periods of overstaying - this is discussed at page 1, lines 9-17; and at page 17, lines 25-26. For example, overstaying a one-hour limit of a \$1 per hour parking space by only a few minutes conventionally attracts strict liability for a manually-issued, fixed penalty charge of up to \$100 or more, depending on the location and nature of the parking offense.

Fixed penalties which are too high cause difficulties: they unduly punish failure to comply, and discourage voluntary compliance by reducing the fairness of the parking system. Excessive fixed penalties also place pressure on processes used to enforce and recover the penalties, such as disputes procedures and remission requests, thus increasing both compliance and administrative costs of the parking system.

Unlike Wong or Okajima, the new claims clearly address the problem of excessive fixed penalties for initial overstaying. In pertinent part, independent claims 40 and 42 clearly recite:

(a) Charging a fixed charge rate for sensed parking during a prescribed period - this is supported at page 17, lines 20-21.

(b) Charging a variable charge rate for sensed parking during a subsequent period successive to the prescribed period, wherein the variable charge rate increases for successive time increments of the subsequent period to thereby increasingly discourage overstaying the

prescribed period without manually issuing a penalty notice with a fixed penalty charge that otherwise applies immediately upon expiry of the prescribed period - this is supported at page 17, lines 22-26; and at page 1, lines 9-17.

The features of independent claims 40 and 42 clearly distinguish those claims, as well as dependent claims 2 and 4, from Wong and/or Okajima. From a commonsense standpoint, neither Wong nor Okajima have anything to do with the problem of excessive fixed penalties for initial overstaying,

Wong mentions at column 1, lines 35-36 that “if a client parks over time, he has to be punished”. However, Wong does not say what form that punishment must take. Presumably, the punishment is a conventional fixed penalty charge that applies immediately upon expiry of the allowable time, and which therefore excessively penalizes initial overstaying. This is one of the very problems that the present invention seeks to avoid. The most generous reading of Wong is that it discloses a series of fixed charge rates increasing *ad infinitum* at hourly intervals from \$0.50 to beyond \$1.00 per hour. However, these hourly increasing fixed charge rates only apply to allowable parking times to improve parking turn over rates - see column 1, lines 57-59. The fixed charge rates of Wong therefore have nothing to do with avoiding excessive fixed penalties for initial overstaying.

Okajima merely discloses charging a fixed penalty for overstaying a regulated time in a dedicated short-term parking section of a parking station. The fixed penalty charge is “2 to 3” times higher than the regular fee - see page 9, lines 1-3. The fixed penalty charge of Okajima applies immediately upon expiry of the regulated time, and therefore excessively penalizes initial overstaying. Again, this is the very problem which the present invention seeks to avoid.

In the rejection, the Examiner asserts that Wong discloses a charging rate that can be adjusted in accordance with the parking duration. Specifically, the Examiner refers to col. 1, lines 44-59 which discloses that “the charging rate can be adjusted in accordance with the parking duration time for instance, the charging rate for the first parking hour is US\$ 0.5/hour while the charging rate for the second parking hour is increased to US\$ 1.0/hour ... etc.” The Examiner admits that Wong does not teach calculating a usage fee that charges a fixed price per time up to a predetermined usage time and thereafter charges an increasingly higher variable price that increases as time progresses and thereby is a disincentive to usage of the parking space beyond the predetermined usage time.

The Examiner cites Okajima for teaching a two-tiered pricing structure with a fixed price per time up to a predetermined usage time. It is asserted in the Office Action that Okajima teaches a penalty by charging a fairly higher (2 to 3 times) fee than that of the general parking fee when leaving the parking garage past the predetermined regulated time (e.g., about 30 minutes). The purported reason for charging this penalty is to enhance parking efficiency.

The Examiner asserts that it would have been obvious for a person of ordinary skill in the art to have modified the teachings of Wong to include Okajima’s fixed price per time up to a predetermined usage time. See Office Action at p. 4.

However, even if Wong were modified to include Okajima’s fixed price per time up to a predetermined usage time, the combination would not satisfy all the limitations of claims 40 and 42. As discussed above, Wong discloses a charging rate that can be adjusted for a time period during which the user is permitted to park. See col. 1, lines 51-57. Replacing Wong’s adjustable charging rate with Okajima’s fixed charging rate for the period of time the user is permitted to

park in the space merely provides the combination with a fixed charging rate during the time when a user is permitted to park in the space. As discussed above, Wong discloses that “if a client parks over time, he has to be punished.” Col. 1, lines 35-36. But Wong does not disclose how the client is to be punished. Presumably, the punishment would be implemented using a conventional method of punishment as described in Okajima which is to charge a higher fixed rate charge of 2-3 times the regular fee. See Okajima p. 9, lines 1-3. Accordingly, the Wong/Okajima combination would not satisfy the claim limitation of “charging a variable charge rate for sensed parking during a subsequent period successive to the prescribed period.”

Also, Applicant respectfully submits that a person of ordinary skill in the art would not have modified Wong based on the teachings of Okajima as asserted in the Office Action. Wong states that it is the primary object of his invention to provide a system “by which the charging rate can be adjusted according to different parking periods, such as peak parking period having a higher charging rate and non-peak period having a lower charging rate”. Col. 1, lines 44-49. To modify Wong to have a fixed charging rate for the prescribed time for parking is contrary to Wong’s primary objective to have an adjustable charging rate during this time period. Such a drastic modification not only would change the principle of operation of Wong, but it would render it unsatisfactory for its intended purpose. Accordingly, it would not have been obvious to a person of ordinary skill in the art to have modified the teachings of Wong based on the teachings of Okajima as asserted in the Office Action. See MPEP § 2143.01(V) (“If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).”); and MPEP § 2143.01(VI) (“If proposed modification would render the prior art

invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).”).

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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